

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 16-24588-CIV-GAYLES/TURNOFF

RENE MESA,

Plaintiff,

vs.

PENNSYLVANIA HIGHER
EDUCATION ASSISTANCE, et al.,

Defendants.

ORDER

THIS CAUSE came before the Court *sua sponte*. Plaintiff Rene Mesa, appearing *pro se*, filed a Complaint on November 2, 2016, against Pennsylvania Higher Education Assistance, Fedloans Servicing, James Preston, Melissa Hanum, Matthew Sessa, Brett Employee Number 612773, American Education Services, Continental Service Group, Inc., Conserve-Arm, Mark E. Davitt, Richard Klein, and Pamela D. Baird (collectively, “Defendants”) [ECF No. 1]. Plaintiff filed a motion to proceed *in forma pauperis* [ECF No. 4], and the screening provisions of 28 U.S.C. § 1915(e) are applicable. Pursuant to that statute, the court must dismiss the case if it determines that “the action or appeal (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). Upon initial screening, the Court finds that it must dismiss this action as malicious.

Plaintiff filed eleven lawsuits, including this one, against the same Defendants using the same Complaint on the same day. *See, e.g., Mesa v. Pennsylvania Higher Education*, 16-CV-24581-RNS; *Mesa v. Pennsylvania Higher Education*, 16-CV-24583-JLK; *Mesa v. Pennsylvania Higher Education*, 16-CV-24584-MGC. This case is not the lowest number of the 11 lawsuits. Judge Altonaga and Judge Williams have already dismissed the cases pending before them as duplicative and, therefore, malicious. *See Mesa v. Pennsylvania Higher Education*, 16-CV-24589-CMA [ECF No. 5]; *Mesa v. Pennsylvania Higher Education*, 16-CV-24582-KMW [ECF No. 5].¹

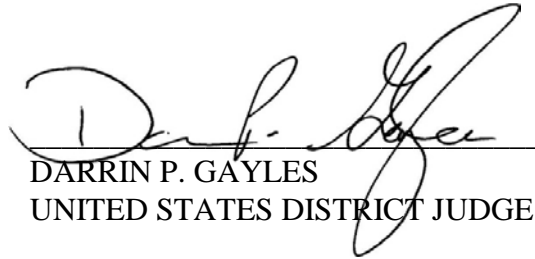
“As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138 (2d Cir. 2000) (citations omitted). An action is duplicative if it arises “from the same serious of events and alleg[es] many of the same facts as an earlier suit.” *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988). Duplicative actions are subject to dismissal under §1915(e)(i) as malicious. *See Bailey*, 846 F.2d at 1021 (dismissing duplicative action because “[r]epetitious litigation of virtually identical causes of action is subject to dismissal under 28 U.S.C. § 1915(d) as malicious.”) (alteration in original; quoting *Robinson v. Woodfork*, 834 F.2d 1023 (5th Cir. 1987) (unpublished order)); *Smith v. Ferrell*, 09-CV-00466-CG-B, 2010 WL 653798, at *2-3 (S.D. Ala. Feb. 18, 2010) (dismissing action because claims were duplicative of those in another pending action).

¹ In making this ruling, the Court adopts and incorporates Judge Altonaga and Judge Williams’ well-reasoned orders of dismissal.

Based on the foregoing, it is

ORDERED AND ADJUDGED that Plaintiff's Complaint [ECF No. 1] is DISMISSED. All pending motions are DENIED as moot. This case is CLOSED.

DONE AND ORDERED in Chambers at Miami, Florida, this 9th day of November, 2016.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE